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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/768,196	01/30/2004	Gary L. Johnson	0554300-0101	6040

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EXAMINER

FOX, CHARLES A

ART UNIT	PAPER NUMBER
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3652

DATE MAILED: 05/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/768,196

Applicant(s)

JOHNSON, GARY L.

Examiner

Charles A. Fox

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 8-20 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 8-20 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 20040130.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 8-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Independent claims 8 and 18 and dependent claim 10 have the limitation of the slide panels as being substantially overlapped. There is no clearly defined state of overlap that is positively taught as being significant. Due to the constraints of the two slide panels, the packer plate and the link there can be no more than a 50% overlap of the two slide panels when at a 45 degree angle in relation to the packer plate. Figure 2 shows almost a 100% overlap of the slide plates when in this position, leading to a confusion as to what is meant by a significant overlap. The instant specification is clear that the size of the panels overlap is not important to the instant invention (see page 13 lines 11-19). As such there is no clearly defined way of determining what constitutes significant overlap.

Regarding claim 12 it is not clear as to what constitutes a substantial portion of the top of the collection bin. Is this 10% or more like 75%, clarification is required.

Regarding claim 15, in section (a) the ramps are said to be attached to each side of the walls. As there are no ramps on the outside of the collection chamber, it appears the claims is meant to state one ramp on the inside of each wall.

Claims 9-17, 19 and 20 are also rejected as being indefinite due to their dependency on either claim 8 or 18. Clarification is required. In the art rejections below

the panels are treated as having the capability of overlapping one another to various degrees.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 8-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ghibaudo in view of Blank and further in view of Collins. In regards to claims 8,10 Ghibaudo US 6,146,079 teaches a spill shield for a refuse collection vehicle, said vehicle comprising:

a refuse collection compartment (14) defined by a pair of side walls;

a refuse storage compartment (10) located adjacent to said collection compartment;

a packer ram assembly comprising:

a packer face plate (28);

a force applying mechanism (30,32) adapted to move said packer plate across at least a substantial portion of said collection department;

a spill shield assembly comprising:

a front panel (86c) and a rear panel (86b);

a roller (102) on said front panel, and a roller (100) on said rear panel;

wherein when the packer plate is at a forward position the spill shield is disposed at an angle so as to direct any refuse into the collection compartment; and

when the packer plate is at the rearward position the spill shield is in a generally horizontal orientation that prevents refuse from being dumped behind the packer plate.

Ghibaudo does not teach the spill shield as being telescopic or as having a link between the packer and the spill shield. Blank US 5,807,043 teaches a shield for protection of industrial equipment, said shield comprising:

a first slide panel and a second slide panel (34);

wherein one of said panels forms a guide that is received within the other panel;

a wiper (52) with an elastomeric gasket (56) sealing one panel from another;

wherein in their extended position the panels have minimal overlap and in their retracted position the panels substantially overlap one another. Blank does not teach a link to adjust the spacing of his telescopic panels relative to each other.

Collins US 3,604,521 teaches a telescopic boom (2) with a link arm (5,6) whereby said link arm changes the amount of overlap in the telescopic boom (2) based upon the angular position of the boom.

It would have been obvious to one of ordinary skill in the art, at the time of invention to provide the apparatus taught by Ghibaudo with a telescopic cover as taught by Blank in order to allow the spill shield to extend to any length needed to cover the rear of the packing plate when it is in the rearward position and also stowing in a compact manner when the packing plate is in the forward position and to further add a link arm as taught

by Collins in order to positively position the slide panels in relation to the packer plate at all positions of the packer plate assembly.

Regarding claim 9 Ghibaudo further teaches a front mounted lifting assembly (not shown) for loading trash into a hopper (14) on said vehicle and that the spill shield is located in a position such that it does not interfere with loading mechanism or the dumping of refuse from the vehicle.

Regarding claims 12 and 14 Ghibaudo further teaches that the spill shield assembly is in a retracted position when the packer plate is at a forward position and in a horizontal extended position when the packer plate is in a rearward position, when in the extended position the spill shield covers the greater part of the collection hopper.

Claims 15-18 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ghibaudo, Blank, Collins and Romano. In regards to claims Ghibaudo teaches a spill shield for a refuse collection vehicle, said vehicle comprising:

- a refuse collection compartment (14) defined by a pair of side walls;

- a refuse storage compartment (10) located adjacent to said collection compartment;

- a packer ram assembly comprising:

- a packer face plate (28);

- a force applying mechanism (30,32) adapted to move said packer plate across at least a substantial portion of said collection department;

- a spill shield assembly comprising:

- a front panel (86c) and a rear panel (86b);

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a roller (102) on said front panel, and a roller (100) on said rear panel;

wherein when the packer plate is at a forward position the spill shield is disposed at an angle so as to direct any refuse into the collection compartment; and

when the packer plate is at the rearward position the spill shield is in a generally horizontal orientation that prevents refuse from being dumped behind the packer plate;

a ramp (104) disposed at an angle of approximately 45° from the horizontal for guiding said panels when the packer plate is at a forward position.

Ghibaudo does not teach the spill shield as being telescopic with a link between the packer and the spill shield or a plurality of ramps. Blank teaches a shield for protection of industrial equipment, said shield comprising:

a first slide panel and a second slide panel (34);

wherein one of said panels forms a guide that is received within the other panel;

a wiper (52) with an elastomeric gasket (56) sealing one panel from another;

wherein in their extended position the panels have minimal overlap and in their retracted position the panels substantially overlap one another;

a guide way (62) for the telescopic panels to move upon. Blank does not teach a link to adjust the spacing of his telescopic panels relative to each other.

Collins teaches a telescopic boom (2) with a link arm (5,6) whereby said link arm changes the amount of overlap in the telescopic boom (2) based upon the angular position of the boom;

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said link being pivotally connected to the device by brackets at either end. Collins does not teach a ramp structure.

Romano US 4,611,848 teaches a sliding cover(20) comprising:

a plurality of panels;

front and rear rollers (26) located at the sides of said panels;

guide ramps (16,17) for said rollers to travel in.

It would have been obvious to one of ordinary skill in the art, at the time of invention to provide the apparatus taught by Ghibaudo with a telescopic cover as taught by Blank in order to allow the spill shield to extend to any length needed to cover the rear of the packing plate when it is in the rearward position and also stowing in a compact manner when the packing plate is in the forward position and to further add link arms as taught by Collins in order to positively position the slide panels in relation to the packer plate at all positions of the packer plate assembly, and to further use a plurality of guide ramps as taught by Romano in order to maintain alignment of the panels as they are placed into the forward position.

Allowable Subject Matter

Claims 11,13 and 19 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. The closest prior art of Ghibaudo and Collins does not teach or suggest any specific angles to the arms of the links in relation to the telescopic member.

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The prior art made of record and not relied upon, but considered pertinent to applicant's disclosure is: Woodard 1975, Gasparini 1990 and Suzuki et al. 1992.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles A. Fox whose telephone number is 571-272-6923. The examiner can normally be reached between 7:00-4:00 Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eileen D. Lillis can be reached at 571-272-6607. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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